REMARKS

Claims 1, 3, 7, 10-13, 16, 18-21, and 29 are pending in this application. By this Amendment, claims 1, 12, and 21 are amended, and claims 2, 5, 8, 22, and 23 are canceled. Support for the amendments to the claims may be found, for example, in the original claims. No new matter is added.

I.   Telephone Interview

The courtesies extended to Applicant's representatives by Examiner Hoffman during the interview held April 2, 2009, are appreciated. The reasons presented during the interview as warranting favorable action are incorporated into the remarks below, which constitute Applicant's record of the interview.

II.   Claim Objection

The Office Action objects to claim 1 for containing a misspelling. By this Amendment, claim 1 is amended to correct the misspelling. Accordingly, reconsideration and withdrawal of the objection are respectfully requested.

III.   Rejection Under 35 U.S.C. §102

The Office Action rejects claims 1, 2, 5, 7, 12, 13, 16, 18-20, and 23 under 35 U.S.C. §102(b) as anticipated by U.S. Patent No. 4,695,456 to Wilder (herein "Wilder"). By this Amendment, claims 2, 5, and 23 are canceled, rendering their rejection moot. As to the remaining claims, Applicant respectfully traverses the rejection.

By this Amendment, claim 1 is amended to overcome the rejection. During the interview, the Examiner agreed that amended claim 1 overcomes this rejection.

Thus, claim 1 is not anticipated by Wilder. Claims 7, 12, 13, 16, and 18-20 variously depend from claim 1 and, thus, also are not anticipated by Wilder. Accordingly, reconsideration and withdrawal of the rejection are respectfully requested.

IV.   Rejections Under 35 U.S.C. §103

A.   Seidel and Bernstein

The Office Action rejects claims 1, 3, 5, 7, 8, 10, 11, 13, 16, 18, 19, 23, and 29 under 35 U.S.C. §103(a) as obvious over U.S. Patent No. 5,830,483 to Seidel et al. (herein "Seidel") and U.S. Patent No. 5,508,034 to Bernstein (herein "Bernstein"). By this Amendment, claims 5, 8, and 23 are canceled, rendering their rejection moot. As to the remaining claims, Applicant respectfully traverses the rejection.

By this Amendment, claim 1 is amended to overcome the rejection. During the interview, the Examiner agreed that amended claim 1 overcomes this rejection.

Thus, claim 1 is not rendered obvious by the combination of Seidel and Bernstein. Claims 3, 7, 10, 11, 13, 16, 18, 19, and 29 variously depend from claim 1 and, thus, also are not rendered obvious by the combination of Seidel and Bernstein. Accordingly, reconsideration and withdrawal of the rejection are respectfully requested.

B.   Bernstein, Wilder and Ziegler

The Office Action rejects claims 1-3, 5, 7, 8, 10-13, 16, 18-20, 23, and 29 under 35 U.S.C. §103(a) as obvious over the combination of Bernstein, Wilder and U.S. Patent No. 5,310,556 to Ziegler (herein "Ziegler"). By this Amendment, claims 2, 5, 8, and 23 are canceled, rendering their rejection moot. As to the remaining claims, Applicant respectfully traverses the rejection.

By this Amendment, claim 1 is amended to require "a triglyceride in an amount of 2-7% by weight and [that] said composition is in a two phase form." The combination of applied references fails to teach or render obvious this combination of claim features.

During the interview, the Examiner agreed that the applied references fail to disclose "a triglyceride in an amount of 2-7% by weight," but asserted that providing a triglyceride in this amount would have been obvious because it only requires routine optimization.

However, the applied references do not disclose how to provide a triglyceride in the claimed amount to a composition in a two phase form, such as an emulsion.

Instead, Ziegler teaches that providing an amount (e.g. 10%) of triglyceride to a composition results in an <u>unstable</u> emulsion directly contrary to the Office Action's assertion at page 6. See Ziegler, column 5, line 41 to column 6, line 14; and Table. That is, Ziegler teaches that when 10 wt% of a triglyceride is added to a formulation, the formulation cannot form a stable emulsion. See Ziegler, column 6, lines 8-11 ("Replacement of the sunflower seed with . . . triglyceride . . . provided an emulsion that was only momentarily stable and broke shortly after preparation."). Nowhere does Ziegler disclose how to form a two phase composition with <u>any</u> amount of a triglyceride, let alone the claimed amount of triglyceride. Bernstein and Wilder also do not disclose how to form a two phase composition with any amount of triglycerides. Accordingly, providing the claimed amount of triglycerides to a two phase composition requires more than routine optimization.
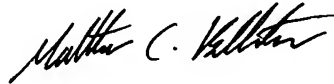
Thus, the combination of Bernstein, Wilder, and Ziegler would not have rendered obvious claim 1. Claims 3, 7, 10-13, 16, 18-20, and 29 variously depend from claim 1 and, thus, also would not have been rendered obvious by the combination of Bernstein, Wilder, and Ziegler for at least the same reasons. Accordingly, reconsideration and withdrawal of the rejection are respectfully requested.

V.   **Conclusion**

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of the application are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,

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Matthew C. Barthalow
Registration No. 60,323

WPB:CSM/mkg

Attachment:
    Petition for Extension of Time

Date: April 22, 2009

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